

BEFORE THE GOVERNING BOARD OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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Order No.: 2014-023-DAO

WWS SOUTH FLORIDA
WATER MANAGEMENT DISTRICT

8.

IN THE MATTER OF:

APPROVAL OF 2014 AMENDMENT
TO THE 2012 LOWER WEST COAST
WATER SUPPLY PLAN

/

**FINAL ORDER ON 2014 AMENDMENT TO THE 2012 LOWER WEST
COAST WATER SUPPLY PLAN UPDATE**

This matter, having come before the Governing Board of the South Florida Water Management District ("SFWMD") at its regular meeting of April 10, 2014, for entry of a Final Order, upon hearing staff's presentation, and being otherwise fully informed, the Governing Board issues this Final Order containing the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The SFWMD conducts water supply planning for each water supply planning region within its jurisdiction where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period.
2. In November 15, 2012, the SFWMD Governing Board approved the 2012 Lower West Coast ("LWC") Water Supply Plan Update ("2012 LWC Plan Update").
3. The 2012 LWC Plan Update determined that the primary freshwater sources in the LWC Planning Area are not sufficient to meet 2030 projected water use demands.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, 2011 LWC WATER SUPPLY PLAN UPDATE, PLANNING DOCUMENT 38 (2011). Past analysis indicated that fresh water in the surficial

aquifer system (SAS) and intermediate aquifer system (IAS), and surface water in the Caloosahatchee River (C-43 Canal) Watershed are not adequate to meet the growing needs of the LWC Planning Area during 1-in-10 year drought conditions. Id., *citing* SOUTH FLORIDA WATER MANAGEMENT PLAN, 2000 LOWER WEST COAST WATER SUPPLY PLAN (2000).

4. The 2012 LWC Plan Update concludes that future water demands can be met with appropriate management and continued diversification of water supply sources. Id. at 173.

5. A water resource caution area is a geographic area identified by a district as having existing water resource problems or an area in which water resource problems are projected to develop during the next twenty years. Fla. Admin. Code R. 62-40.210(42).

6. If a regional water supply plan is needed for a region, the region shall also be designated a water resource caution area ("WRCA"). Fla. Admin. Code R. 62-40.520(2).

7. Applicants for permits to construct or operate a domestic wastewater treatment facility located within, serving a population located within, or discharging within a WRCA are required to submit a reuse feasibility study as part of its Florida Department of Environmental Protection ("FDEP") application. § 403.064(2), Fla. Stat. (2013).

8. On November 8, 2013, the FDEP transmitted a memo relating to WRCAs. The memo is attached hereto as Exhibit A.

9. The FDEP memo recognized that neither the statute nor the rule specify the procedure for designating a WRCA. (Ex. A at 2.) The memo provides two methods to designate WRCAs. Id.

10. If a district uses the WRCA designation as part of its consumptive use permitting criteria, the WRCA designation must be adopted by rule. Id. However, if the

designation is not utilized in the consumptive use permitting process, the WRCA designation may occur by rule or in the applicable regional water supply plan. Id.

11. The majority of the SFWMD, including the LWC, had previously been designated as a critical water supply problem area. The designation was adopted by rule in Chapter 40E-23, Fla. Admin. Code. The consumptive use permitting program then required a reclaimed water feasibility evaluation study to be submitted as part of the consumptive use permit application if the applicant's project was located in the critical water supply problem area.

12. However, in May 2012, Chapter 40E-23, Fla. Admin. Code, and the associated consumptive use permitting criteria were repealed. It was determined these rules were unnecessary and redundant of other consumptive use permitting criteria contained in Section 3.2.3 of the Basis of Review for Water Use Permits within the South Florida Water Management District, pertaining to the feasibility of using reclaimed water that was applicable to permit applicants regardless of their location.

13. Where applicable, the FDEP has requested the five water management districts amend existing regional water supply plans to include the WRCA designation.

14. The SFWMD does not anticipate that the amendment to include the WRCA will have a significant impact on consumptive use permit applicants in this region. In 2012, the LWC Planning Area had 39 wastewater treatment facilities with a capacity of 0.1 MGD or greater. These facilities had a total wastewater treatment capacity of 161 MGD and treated 78 MGD of wastewater. FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, 2012 REUSE INVENTORY App. L (May 2013).

15. Thirty-eight of the 39 wastewater treatment facilities reuse all or a portion of their wastewater. In 2012, 81 MGD was reused for a beneficial purpose in the LWC

Planning Area. Id. Approximately 78 MGD of reclaimed water was reused for irrigation of more than 69,000 residential and commercial lots, 79 golf courses, 61 parks, and 29 schools. Id. About 1 MGD was used for groundwater recharge through rapid infiltration basins and spray fields. Id. The remainder was used for miscellaneous uses, such as for industry and agriculture. Id.

16. In 2012, 7 MGD of the LWC Planning Area's 78 MGD of the wastewater treated, which is potentially reusable, was disposed of through injection wells and discharged to surface water. Id. SOUTH FLORIDA WATER MANAGEMENT DISTRICT, *supra* at 82. However, each utility plans to minimize future wastewater effluent discharges. Id. Appendix D of the 2012 LWC Plan Update lists the reclaimed water facilities and capacities located within the LWC Planning area. Id. at App. D.

17. Development of the 2014 amendment to the 2012 LWC Plan Update occurred in conjunction with an open public participation effort. On February 27, 2014, the District held a LWC Plan Regional Workshop via video connection with Big Cypress Basin and Fort Myers, Florida. The primary role of the Regional Workshop was to receive public input, contribute local knowledge and expertise, and reflect the collective concerns of the various stakeholders in the planning region.

18. This amendment to the 2012 LWC Plan Update is limited in scope and only addresses the designation of the LWC as a water resource caution area. A copy of the amendment to the 2012 LWC Plan Update is attached hereto as Exhibit B. No other amendments to the 2012 LWC Plan Update are proposed at this time. A Notice of Rights concerning this final agency action is attached hereto as Exhibit C.

19. The amendment to the 2012 LWC Plan Update is not a self-executing document. It is not intended to affect the substantial interest of a party. Future Governing

Board action will be required to implement the 2012 Plan Update and this amendment. When implementing action is taken, the Governing Board shall offer an appropriate point of entry to substantially affected parties, including Section 120.569, Fla. Stat., rights. Issues regarding underlying analyses, findings, conclusions or any other portions of the 2014 Amendment to the 2012 LWC Plan Update relied upon to support a future Governing Board action may also be raised at that time.

20. The 2012 LWC Plan Update may be amended or updated as appropriate in light of new technical information and analysis. Updates are required to occur no later than at five year intervals.

21. Notice of this final agency action will be distributed by regular and electronic mail to persons who have participated in plan development process. Additional notice will be published in the newspapers of general circulation within the planning region.

CONCLUSIONS OF LAW

22. The governing boards of the water management districts are authorized to undertake regional water supply planning efforts. § 373.709, Fla. Stat. (2013). This includes the updating of existing plans such as the 2012 LWC Plan Update.

23. Section 373.709, Fla. Stat., establishes a framework for the regional water supply plan's scope, analysis, implementation, and process. Id.

24. The Governing Board concludes that the 2014 Amendment to the 2012 LWC Plan Update meets the requirements of Section 373.709, Fla. Stat., as related to the limited purpose of this amendment.

25. Section 373.709(5), Fla. Stat., establishes the opportunity for administrative review of District approval of a regional water supply plan. This provision states:

Governing board approval of a regional water supply plan shall not be subject to the rulemaking requirements of Chapter 120.

However, any portion of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. 120.569, Fla. Stat.

26. Section 120.569, Fla. Stat., details the legal provisions that apply in all proceedings in which the substantial interests of a party are determined by an agency. The Notice of Rights, which describes the potential remedies which may exist, is attached hereto as Exhibit C.

27. The Notice of Rights concerning this amendment shall not cover actions taken by the Governing Board in the future to implement the LWC Plan Update. When future implementing action is taken, the Governing Board shall offer an appropriate point of entry to substantially affected parties. To the extent the LWC Plan Update, as amended, or anything in the LWC Plan Update is relied upon to support a future Governing Board action, a challenge to the implementation action may also challenge the supporting material contained in the 2012 LWC Plan Update.

28. The 2012 LWC Plan Update may be updated or amended as new technical information and analysis becomes available. Updates shall occur in accordance with Section 373.709, Fla. Stat., at intervals no later than five years from November 15, 2012, the date of entry of the Final Order on the 2012 LWC Plan Update.

29. This 2014 Amendment to the 2012 LWC Plan Update is intended to be restricted in scope to solely incorporate the designation of the LWC Planning Area as a water resource caution area.

30. This Amendment does not constitute an update of the 2012 LWC Plan Update pursuant to the 5 year update requirements in Subsection 373.709(1), Fla. Stat., and does not trigger local government requirements in Subsection 163.3177(6)(c), Fla. Stat.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby
ORDERED that the 2014 Amendment to the 2012 Lower West Coast Water Supply Plan
Update is hereby approved in accordance with Section 373.709, Fla. Stat. Staff is
authorized to distribute notice of this final agency action by U.S. regular and electronic mail
to persons who have participated in the 2014 Amendment process. Additional notice shall
be published in newspapers of general circulation within the planning region.

DONE AND SO ORDERED in West Palm Beach, Florida, on this 15th day of April,
2014.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
By its Governing Board



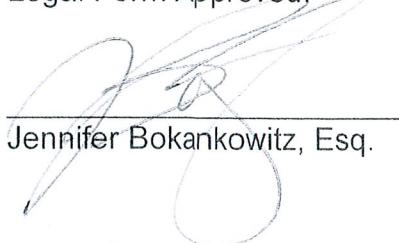
BLAKE C. GUILLORY, P.E.
Executive Director

Attest:



Jackie McGaughy
District Clerk/Assistant Secretary
April 15, 2014

Legal Form Approved:



Jennifer Bokankowitz, Esq.



FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

MARJORY STONEMAN DOUGLAS BUILDING
3900 COMMONWEALTH BOULEVARD
TALLAHASSEE, FLORIDA 32399-3000

RICK SCOTT
GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

TO: George Roberts, Chair, NFWFMD
Jon P. Stevenson, Executive Director, NFWFMD
Donald J. Quincy, Chair, SRWMD
Ann Shortelle, Executive Director, SRWMD
Lad Daniels, Chair, SJRWMD
Hans G. Tanzler III, Executive Director, SJRWMD
Carlos Beruff, Chair, SWFWMD
Robert Beltran, Executive Director, SWFWMD
Daniel O'Keefe, Chair, SFWMD
Blake Guillory, Executive Director, SFWMD

THROUGH: Herschel T. Vinyard Jr. *[Signature]*
Secretary

FROM: Drew Bartlett *[Signature]*
Deputy Secretary, Water Policy and Ecosystem Restoration

SUBJECT: Guidance relating to Water Resource Caution Areas

DATE: November 8, 2013

Increasing our beneficial use of reclaimed water is a critical component in meeting the future water supply needs of the state while protecting natural resources. We commend the water management districts for their role in making Florida the national leader in reuse of reclaimed water. Due in large part to the districts' efforts, Florida reused, in 2012, 725 million gallons a day of reclaimed water, or about 45% of total wastewater flow.

The Department and the water management districts must continue to coordinate on water supply planning and wastewater issues, including the designation of water resource caution areas (WRCA), to ensure that the feasibility of using reclaimed water to meet water supply needs is carefully evaluated. In doing so, we will build upon our past successes and identify additional areas where more reclaimed water can be put to beneficial use.

The purpose of this memo is to provide guidance on the District designation of WRCA and to lay out a process for District staff to provide notice of the designation of these areas to the Department. WRCA are established pursuant to the following rules and statutes:

- o Rule 62-40.210(39), F.A.C., defines WRCA as: "... a geographic area identified by a District as having existing water resource problems or an area in which water resource problems are projected to develop during the next twenty years."

- Rule 62-40.520(2), F.A.C., states that: “Within one year of the determination that a regional water supply plan is needed for a water supply planning region, the region shall also be designated as a water resource caution area. Domestic wastewater treatment facilities which are located within, or serve a population located within, or discharge within water resource caution areas shall be subject to the reuse requirements of Section 403.064, F.S.”
- Section 403.064 (2), F.S., pertaining to reuse of reclaimed water, specifies that: “All applicants for permits to construct or operate a domestic wastewater treatment facility located within, serving a population located within, or discharging within a water resource caution area shall prepare a reuse feasibility study as part of their application for the permit.”

The Department uses the District designation of WRCAs in administering the permitting requirements of section 403.064, F.S. For that purpose, it is necessary that the Department's wastewater staff have accurate boundary information for WRCAs within the Districts. Further, since the designation triggers an additional wastewater permitting requirement, affected parties must be made aware of their right to challenge the designation under section 120.569, F.S.

Neither the statute nor the rule provides direction on the mechanism for designating WRCAs. In some Districts they have been designated by rule and in other Districts they are not. Additionally, in some Districts, WRCAs are utilized as part of the consumptive use permitting program, while in other Districts they are not. This guidance memo provides two alternate means of designating WRCAs, both of which provide a necessary entry point for challenges by affected parties.

- For Districts that rely on a WRCA designation in consumptive use permitting, the WRCA must be explicitly designated in rule. The areas must be identified by rule as “Water Resource Caution Areas.”
- For Districts that do not use the WRCA designation in consumptive use permitting, the WRCA may be designated in rule or in the Regional Water Supply Plan. If designated in the plan, the plan shall include the following language: “The water supply planning region identified in this plan shall be considered a Water Resource Caution Area for the purposes of section 403.064, F.S., and affected parties may challenge the designation pursuant to section 120.569, F.S.”

There is also no formal process for conveying WRCA boundary information to Department staff who use it in the wastewater permitting program. This guidance memo serves to formalize the method of communicating WRCA designations to Department staff. The Department will create a publicly available statewide GIS layer of WRCAs.

- In Districts where only portions of the District are designated as WRCAs, the District will, as soon as practical, provide a GIS data layer of the currently designated WRCAs to the Department's Director of the Office of Water Policy at 3900 Commonwealth Blvd.,

MS 46, Tallahassee, Florida 32399-3000, or will submit the information electronically as arranged with the Director. The information should be identified as Water Resource Caution Area boundary maps for implementation of section 403.064, F.S. Future updates of WRCA boundaries should be timely submitted in the same manner.

- In Districts where the entire District is designated as a WRCA, the District shall notify the Director as indicated above, but need not provide any further information to the Department describing the boundaries of the WRCA.

If you have any questions regarding this guidance memo, please contact the Department's Office of Water Policy at (850) 245-3166.

HTV/DB/TB/JL/dt

cc: Tom Beck, Ph.D., Director, Office of Water Policy, FDEP
Mark Thomasson, Director, Division of Water Resource Management, FDEP
Sharon Sawicki, Domestic Wastewater Program Administrator, FDEP

The South Florida Water Management District (SFWMD) updates regional water supply plans to provide for current and future water needs, while protecting south Florida's water resources. This plan update assesses existing and projected water needs and water sources to meet those needs over a 20-year planning horizon from 2010 to 2030 for the Lower West Coast (LWC) Planning Area. The update presents current and projected populations, water demand, water resource and water supply development projects, and related water supply planning information. The plan also describes proposed water supply projects and regional project implementation strategies for Fiscal Year (FY) 2010 through FY 2030. This current plan is a five-year plan update of the *2005–2006 Lower West Coast Water Supply Plan Update* (2005–2006 LWC Plan Update; SFWMD 2006), which updated the *2000 Lower West Coast Water Supply Plan* (2000 LWC Plan; SFWMD 2000b).

Projections developed for this update estimate the LWC Planning Area's population will increase by over 51 percent, from approximately 993,000 residents in 2010 to more than 1.5 million residents by 2030. In contrast, the 2005–2006 LWC Plan Update projected the planning area's population to increase by 74 percent, with the total population reaching 1.5 million by 2025.

This update consists of this Planning Document, an Appendices, and the *2011–2012 Water Supply Plan Support Document* (SFWMD 2012a). These documents are available from the SFWMD's Water Supply website at <http://www.sfwmd.gov/watersupply>.

In this update, projected gross water demands for 2030 for the region's Public Water Supply (PWS) and Domestic Self-Supply (DSS) are 256.1 million gallons of water per day (MGD). This demand projection represents a 46 percent increase from 175.2 MGD in 2010.

While PWS and DSS are anticipated to be at least 20 percent of the LWC Planning Area's total gross demands by 2030, the Agricultural (AGR) Self-Supply use category is projected to remain the LWC Planning Area's single largest water user category in 2030. Agricultural gross water demand is projected to increase from 630 MGD in 2010 to approximately 696-741 MGD in 2030, representing at least 57 percent of the LWC Planning Area's total gross demands.

This plan update reflects the influence of significant fluctuations in the economy, residential and commercial development, agricultural commodity markets, and sustainable use of natural resources on the projected water needs of the LWC Planning Area. **Chapter 2** of this update documents the population growth and water demand by each water use category. **Chapter 3** discusses changes to the water resources, their availability, and related issues facing the region. **Chapter 4** evaluates the planning area's various water source options. **Chapter 5** identifies water resource development projects while **Chapter 6** describes water supply development projects. **Chapter 7** provides future guidance and direction. A glossary and a reference section are provided at the end of the document.

The legal authority and requirements for water supply planning are included in Chapters 373, Florida Statutes (F.S.), with additional direction located in Chapters 403 and 187, F.S. In accordance with Florida's Water Protection and Sustainability Program, regional water supply plans and local government comprehensive plans must ensure adequate potable water facilities are constructed and concurrently available with new development. The water supply planning region identified in this plan shall be considered a Water Resource Caution Area for the purposes of Section 403.064, F.S., and affected parties may challenge the designation pursuant to Section 120.569, F.S.

Subsection 373.709(1), F.S. states the following:

The governing board of each water management district shall conduct water supply planning for any water supply planning region within the district identified in the appropriate district water supply plan under Section 373.036, F.S., where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period.

The SFWMD's Consumptive Use Permitting Program minimizes contention for water resources and plays an important role in resource protection. Consumptive use permitting protects the supply and quality of groundwater and surface water resources by ensuring that water use is reasonable, beneficial, and consistent with the public interest, and that it does not interfere with existing legal uses (see Chapter 40E-2, Florida Administrative Code [F.A.C.], and Section 373.223, F.S.).

The SFWMD's strategic goal for all of its water supply planning efforts is to ensure an adequate supply of water to protect natural systems and meet all existing and projected reasonable-beneficial uses, while sustaining water resources for future generations. Specifically, the goals of this update are to identify enough sources of water to meet the needs of all reasonable-beneficial uses within the LWC Planning Area through 2030 during a 1-in-10 year drought event (a drought expected to have a return frequency of once in 10 years), and to sustain the region's water resources and natural systems.

Restricted Allocation Areas limit specific water resources from further allocation in various geographic areas. In October 2008, the SFWMD adopted Restricted Allocation Area criteria for the Lake Okeechobee Service Area. This criterion is provided in Section 3.2.1 of the *Basis of Review for Water Use Permit Applications within the South Florida Water Management District*, referred to as the Basis of Review (SFWMD 2010a). These criteria limit surface water withdrawals from Lake Okeechobee and all surface water hydraulically connected to the lake. By connection to the lake, the Caloosahatchee River (C-43 Canal) and the St. Lucie River (C-44 Canal) in the Upper East Coast Planning Area are subject to these Restricted Allocation Area criteria. By limiting the availability of surface water for new consumptive use allocations, these criteria protect the rights of existing legal users, as well as the region's water resources. For more information see the *2012 Lower East Coast Water Supply Plan Update* (SFWMD 2012b).

A Water Reservation is a legal mechanism to set aside water from consumptive water use for the protection of fish and wildlife or public health and safety.

A Water Reservation in support of the Comprehensive Everglades Restoration Plan (CERP) Picayune Strand Restoration Project became effective in July 2009. This reservation sets aside water for the natural system



Picayune Strand

NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: 1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or 2) within 14 days of service of an Administrative Order pursuant to Subsection 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of either written notice through mail, or electronic mail, or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action. Any person who receives written notice of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

Filing Instructions

The Petition must be filed with the Office of the District Clerk of the SFWMD. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** Any person wishing to receive a clerked copy with the date and time stamped must provide an additional copy. A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Any document received by the office of the SFWMD Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the SFWMD Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must be delivered to the Office of the SFWMD Clerk. **Delivery of a petition to the SFWMD's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the SFWMD's security officer to contact the Clerk's office.** An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by facsimile must be transmitted to the SFWMD Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the SFWMD Clerk receives the complete document.

Initiation of an Administrative Hearing

Pursuant to Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 and 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, District file number or any other SFWMD identification number, if known.
2. The name, address and telephone number of the petitioner and petitioner's representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the SFWMD's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the SFWMD's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the SFWMD to take with respect to the SFWMD's proposed action.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and that the SFWMD and any other parties agree to or oppose the extension. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

If the District takes action with substantially different impacts on water resources from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law.

Mediation

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Sections 120.60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.